

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

INDUSTRIA DE ALIMENTOS Zenú S.A.S.,

Plaintiff/Counter-Defendant,

vs.

LATINFOOD U.S. CORP. d/b/a Zenú Products
Inc. and WILSON ZULUAGA,

Defendants/Counterclaimants/
Third Party Plaintiffs,

vs.

CORDIALSA USA, INC.,

Third Party Defendant.

Case No. 2:16-cv-06576-CCC-MAH

Hon. Michael A. Hammer, U.S.M.J.

STIPULATION

Plaintiff Industria de Alimentos Zenú S.A.S. (“Plaintiff”) and Defendants Latinfood U.S. Corp. and Wilson Zuluaga (“Defendants”) (Plaintiff and Defendants, each a “Party,” and together, the “Parties”), by and through their undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on October 20, 2023, Plaintiff refiled its application for attorneys’ fees and costs pursuant to Fed. R. Civ. Pro. 37 and prior Orders of this Court (ECF Docs. 232, 253); and

WHEREAS, by December 6, 2023 Order (ECF Doc. 338), this Court permitted Defendants to submit opposition to Plaintiff’s October 20, 2023 fee application by or before December 30, 2023, with Plaintiff’s reply thereto due on or before Friday, January 19, 2024; and

WHEREAS, Defendants filed opposition on December 30, 2023 (ECF Doc. 341), which included an argument for an offset equal to Defendants’ attorneys’ fees and expenses incurred in opposing Plaintiff’s refiled October 20, 2023 fee application; and

WHEREAS, Defendants state in their opposition brief that, “[o]ut of an abundance of caution” (ECF Doc. 341 at 33, fn. 11), Defendants advance substantially the same offset

argument in a separate, simultaneously filed Motion for Offset of Attorneys' Fees (ECF Doc. 342), returnable on February 5, 2024, with Plaintiff's opposition thereto due on Monday, January 22, 2024;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED:

1. Plaintiff does not object to the Court's consideration of Defendants' offset argument as part of Defendants' opposition to Plaintiff's pending fee application and without the need for a separate motion on that issue by Defendants, and will respond to the substance of that argument in Plaintiff's reply papers.

2. Plaintiff's time to file its reply shall be extended by one business day from Friday, January 19, to Monday, January 22, 2024, when Plaintiff's opposition to the withdrawn offset motion otherwise would have been due.

3. Because Plaintiff's agreement above obviates the need for a separate motion, Defendants' pending Motion for Offset of Attorneys' Fees (ECF Doc. 342) is hereby withdrawn without prejudice.

4. This Stipulation may be executed in counterparts, each of which shall constitute an original, all of which together shall constitute one and the same agreement, which shall become effective upon delivery of each Party's executed counterpart to each other Party. An electronic signature shall have the same force and effect as an ink signature affixed by hand. A copy of an executed counterpart delivered by facsimile or electronic transmission is effective as delivery of an original manually executed counterpart.

WHEREFORE, the Parties respectfully request that this Honorable Court endorse this Stipulation and instruct the Clerk of the Court to update the docket accordingly.

Dated: New York, New York
January 16, 2024

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*Attorneys for Plaintiff
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Dated: New York, New York
January 16, 2024

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*Attorneys for Defendants Latinfood U.S.
Corp. d/b/a Zenú Products Co. and Wilson
Zuluaga*

IT IS on this 18th day of January, 2024,

SO ORDERED:

SO ORDERED

s/Michael A. Hammer
Michael A. Hammer, U.S.M.J.

Date: 1/18/2024